

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: John Butler	Team: Squad #5	CCRB Case #: 201510236	<input checked="" type="checkbox"/> Force	<input type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Tuesday, 11/24/2015 10:40 PM	Location of Incident: East 194th Street and Marion Avenue and 52nd Precinct Stationhouse.	Precinct: 52	18 Mo. SOL 5/24/2017	EO SOL 5/24/2017	
Date/Time CV Reported Wed, 11/25/2015 12:01 AM	CV Reported At: IAB	How CV Reported: Phone	Date/Time Received at CCRB Wed, 12/02/2015 2:35 PM		

Complainant/Victim	Type	Home Address

Subject Officer(s)	Shield	TaxID	Command
1. POM Jorge Monge	6417	955212	PBBX
2. POM James Hannigan	9586	954913	PBBX
3. SGT Carlos Deleon	03650	933738	PBBX

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. POM Brian Mahon	26892	955116	PBBX

Officer(s)	Allegation	Investigator Recommendation
A.POM Jorge Monge	Force: At East 194th Street and Marion Avenue in the Bronx, PO Jorge Monge used physical force against § 87(2)(b)	
B.POM James Hannigan	Force: At East 194th Street and Marion Avenue in the Bronx, PO James Hannigan used physical force against § 87(2)(b)	
C.POM Jorge Monge	Force: At East 194th Street and Marion Avenue in the Bronx, PO Jorge Monge used a chokehold against § 87(2)(b)	
D.POM James Hannigan	Force: At East 194th Street and Marion Avenue in the Bronx, PO James Hannigan used a chokehold against § 87(2)(b)	
E.SGT Carlos Deleon	Abuse: At the 52nd Precinct Stationhouse, Sgt. Carlos Deleon authorized the strip-search of § 87(2)(b)	

Case Summary

§ 87(2)(b) filed this complaint with IAB via phone on November 25, 2015, generating log number 15-36890. The complaint was received at the CCRB on December 2, 2015.

On November 24, 2015, at approximately 10:40 p.m., PO Jorge Monge and PO James Hannigan of Patrol Borough Bronx approached § 87(2)(b) and § 87(2)(b) as they walked in the vicinity of East 194th Street and Marion Avenue in the Bronx. PO Monge and PO Hannigan informed § 87(2)(b) that he was under arrest due to an active bench warrant under his name and that he would also receive a summons for jaywalking. PO Monge and PO Hannigan both allegedly punched § 87(2)(b) in the face (**Allegations A and B**) and placed him in a chokehold (**Allegations C and D**). § 87(2)(b) was arrested for § 87(2)(b).

§ 87(2)(b) was transported to the 52nd Precinct Stationhouse. PO Brian Mahon of the Patrol Borough Bronx, who was not present for § 87(2)(b)'s arrest, was assigned as § 87(2)(b)'s arresting officer by Sgt. Carlos Deleon of the Patrol Borough Bronx. Sgt. Deleon allegedly authorized a strip- search of § 87(2)(b) at the stationhouse (**Allegation E**).

There is no video footage of the incident at 194th Street and Marion Avenue, but § 87(2)(b) provided video footage of his visit to the 52nd Precinct Stationhouse which is embedded below (**BR 08**). The full version of this video can be found in IA #42 (**BR 07**).



201510236_20151228_1622_DM.mp4

Mediation, Civil and Criminal Histories

§ 87(2)(b)'s case was not suitable for mediation due to his arrest. § 87(2)(g)

As of February 5, 2016, a Notice of Claim had not been filed in regards to this incident (**BR 12**). § 87(2)(b)

Civilian and Officer CCRB Histories

This is the first CCRB complaint involving § 87(2)(b) and § 87(2)(b) (**BR 13-14**).

PO Monge has been a member of the NYPD for 2 years and has no prior CCRB complaints against him.

PO Hannigan has been a member of the NYPD for 2 years and has 17 prior CCRB complaints against him. There were no substantiations. § 87(2)(g)

Sgt. Carlos Deleon (#933738) has been a member of the NYPD for 12 years and has 22 prior CCRB complaints against him. There are no substantiations. § 87(2)(g)

Potential Issues

§ 87(2)(b) refused to be interviewed on the advice of his criminal attorney.

Findings and Recommendations

Allegations not pleaded

It is undisputed that PO Monge and § 87(2)(b) knew each other from prior interactions. It is also undisputed that at the time of this incident there was an active warrant for § 87(2)(b)'s arrest, and this is noted on the arrest report as the reason for the officers' approach. Furthermore, § 87(2)(b) in his telephone statement, alleged that the officers searched him, while PO Monge stated that he frisked § 87(2)(b) § 87(2)(g)

§ 87(2)(b) initially alleged that when he went to the 52nd Precinct Stationhouse to file a complaint against PO Monge, the Desk Officer refused to process his complaint. § 87(2)(b) recorded his encounter at the 52nd Precinct stationhouse on his cellphone. The video footage showed that an officer provided § 87(2)(b) with a civilian complaint report form. § 87(2)(b) viewed the video footage during his interview and acknowledged that he received the complaint form. § 87(2)(g)

Allegation A– Force: At 194th Street and Marion Avenue in the Bronx, PO Jorge Monge used physical force against § 87(2)(b)

§ 87(2)(b) provided a telephone statement to the CCRB on December 11, 2015 (**BR 02**). On December 16, 2015, § 87(2)(b) was interviewed at the CCRB (**BR 01**). PO Monge was interviewed on January 15, 2016 (**BR 03**). PO Hannigan was interviewed on February 1, 2016 (**BR 04**). PO Brian Mahon was interviewed on February 2, 2016 (**BR 05**).

According to all parties, PO Monge and PO § 87(2)(b) approached § 87(2)(b) and § 87(2)(b) at the corner of East 194th Street and Marion Avenue. § 87(2)(b) immediately walked away from the officers to the corner of Marion Avenue and East 195th Street. While walking away, § 87(2)(b) looked backward toward the officers and observed their interactions with § 87(2)(b)

According to § 87(2)(b) § 87(2)(b) and the officers spoke with each other in raised voices on the sidewalk near a wall. § 87(2)(b) did not take any action at this time. § 87(2)(b) then observed PO Monge strike § 87(2)(b)'s right cheek with his right fist or hand. § 87(2)(b) believed that PO Monge used a closed fist to strike § 87(2)(b) but was not completely sure. § 87(2)(b) fell backward against a nearby wall and then hunched his back forward and hung his head low as he fell forward off-balance. § 87(2)(b) did not see § 87(2)(b) swing his fists or resist the officers in any way during the incident. In an unverified phone statement, § 87(2)(b) § 87(2)(b) alleged that PO Monge punched him. § 87(2)(b) received medical treatment at § 87(2)(b) for an unspecified injury to his head, and PO Monge received medical treatment for a contusion to his right hand. After § 87(2)(b) was arrested, § 87(2)(b) § 87(2)(b) went to the 52nd Precinct Stationhouse. While at the stationhouse, § 87(2)(b) observed § 87(2)(b)'s nose and mouth bleeding. He recorded § 87(2)(b) on his cell phone at that time (See embedded video). The video footage did not show any injuries to § 87(2)(b)

According to the officers, § 87(2)(b) removed a plastic bag, containing what the officers believe to be crack, from his back pocket shortly after the initial stop. § 87(2)(b) immediately placed this bag in his mouth and swallowed it. At that time, PO Monge and PO Hannigan restrained § 87(2)(b) but the officers were inconsistent about how they did so.

According to PO Hannigan, § 87(2)(b) pushed PO Monge immediately after consuming the bag of crack. PO Monge did not mention this push in his interview. According to

PO Monge, § 87(2)(b) pulled his hands upward and moved his body side to side to prevent the officers from handcuffing him. PO Monge stated that § 87(2)(b) stood in a “standing fetal position” with his back hunched forward and his hands pulled up over his face during this period of resistance. PO Monge did not know what actions he or PO Hannigan took at that time because the incident “happened so fast,” and PO Monge did not know whether or not he punched § 87(2)(b). According to PO Hannigan, § 87(2)(b) “flailed his arms,” threw punches at the officers, and “swung his elbows.” PO Hannigan could not describe how § 87(2)(b) “flailed his arms” beyond saying that § 87(2)(b) moved his arms as though he was “drowning or swimming.” PO Hannigan could not estimate how many punches § 87(2)(b) threw, and PO Hannigan only felt one of these strikes make contact with his chest. PO Hannigan did not see PO Monge punch § 87(2)(b) and he never became aware that PO Monge did so.

PO Monge sustained a contusion to his right hand during the incident, but he did not know how he sustained this injury because the incident “happened so fast.” PO Hannigan did not know how PO Monge sustained this injury. The line of duty and AIDED paperwork prepared for the incident attributed PO Monge’s injury to his hand making contact with the wall during the struggle (**BR 09-10**); however, PO Monge’s medical records from § 87(2)(b) indicated that PO Monge sustained his injury from throwing a punch (**BR 11**).

Police officers must use the minimum force necessary to effect an arrest. Patrol Guide Procedure 203-11 (**BR 06**).

§ 87(2)(g)

Allegation B- Force: At 194th Street and Marion Avenue in the Bronx, PO James Hannigan used physical force against § 87(2)(b)

According to § 87(2)(b) PO Hannigan punched § 87(2)(b) at least two times to the left side of § 87(2)(b)’s face immediately following PO Monge’s initial strike. § 87(2)(b) stated that § 87(2)(b) did not resist the officers in any way. In an unverified phone statement, § 87(2)(b) alleged that PO Hannigan punched him an unspecified number of times. Additional officers arrived on the scene at this time, and § 87(2)(b) was placed under arrest by PO Mahon and transported to the 52nd Precinct stationhouse.

PO Hannigan did not recall whether he punched § 87(2)(b) and PO Monge did not see whether PO Hannigan punched § 87(2)(b).

§ 87(2)(g)

§ 87(2)(g)

Allegation C- Force: At 194th Street and Marion Avenue in the Bronx, PO Jorge Monge used a chokehold against § 87(2)(b)

In an unverified phone statement, § 87(2)(b) alleged that PO Monge placed him in a chokehold. § 87(2)(b) alleged that he observed PO Monge place § 87(2)(b) in a chokehold by wrapping his right arm under § 87(2)(b)'s chin and placing his left arm against the left side of § 87(2)(b)'s face.

PO Monge denied placing § 87(2)(b) in a chokehold, and PO Hannigan did not see PO Monge take this action.

§ 87(2)(g)

Allegation D- Force: At 194th Street and Marion Avenue in the Bronx, PO James Hannigan used a chokehold against § 87(2)(b)

Allegation E- Abuse of Authority: Strip Searched: At the 52nd Precinct Stationhouse, Sgt. Carlos Deleon authorized the strip-search of § 87(2)(b)

§ 87(2)(b) alleged that PO Hannigan also attempted to place him in a chokehold. § 87(2)(b) did not make this allegation. § 87(2)(b) also alleged that he was strip searched at the 52nd Precinct stationhouse. § 87(2)(b) did not make this allegation.

§ 87(2)(g)

Squad:

Investigator: _____
Signature Print Date

Squad Leader: _____
Title/Signature Print Date

Reviewer: _____
Title/Signature Print Date